

1 IN THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY, MARYLAND

2

3 STATE OF MARYLAND Criminal Docket

4 vs. CASE NO. C-02-CR-18-001515

5 JARROD WARREN RAMOS

6 Defendant.

7 _____/

8 OFFICIAL TRANSCRIPT OF PROCEEDINGS

9 MOTIONS HEARING (DAY 2)

10 Annapolis, Maryland

11 Wednesday, July 31, 2019

12 BEFORE:

13 THE HONORABLE LAURA S. RIPKEN

14 APPEARANCES:

15 For the State:

16 Anne Colt Leites, Assistant State's Attorney

17 James Tuomey, Assistant State's Attorney

18 For the Defendant:

19 William M. Davis, Esquire

20 Katy C. O'Donnell, Esquire

21 Elizabeth W. Palan, Esquire

22

23

24 Transcribed from digital recording by:

25 Tracy A. Whitzel, CET

P R O C E E D I N G S

(9:22 a.m.)

MS. LEITESS: Good morning, Your Honor. Shall I call the case, Your Honor?

THE COURT: Please.

MS. LEITESS: Your Honor, this is State of Maryland v. Jarrod Ramos, Case C-02-18-CR-1515. Anne Colt Leites, State's Attorney for Anne Arundel County.

MR. TUOMEY: Good morning, Your Honor. May it please the Court, James Tuomey, for Anne Arundel County, as well.

MR. DAVIS: William Davis on behalf of Mr. Ramos. Mr. Ramos is present.

MS. O'DONNELL: Your Honor, Katy O'Donnell, also on behalf of Mr. Ramos.

MS. PALAN: Elizabeth Palan -- P A L A N -- on behalf of Mr. Ramos.

THE COURT: I set this matter in for a hearing. I note, initially, that I received word that my voice doesn't carry very well in the courtroom. It's not the first time I've heard that. I asked that they turn up the microphone. I trust that everybody can hear. Counsel, if anybody has difficulty hearing me, please let me know.

With that said, we are set this morning -- I set this matter in for a hearing to address any objections the

1 defense might have regarding the *in camera* review as it
2 relates to the defendant's records at the Anne Arundel
3 County Detention Center and the education records.

4 Let me begin by saying, Ms. Leiteess dropped off
5 the education records which were, for some reason, delivered
6 to her office and not my chambers and it's my understanding
7 that she did not review them; that she understood that they
8 were *in camera* and, although I did not speak with her about
9 that.

10 MS. LEITESS: I can clarify that, Your Honor.

11 THE COURT: Why don't you go ahead and clarify.

12 MS. LEITESS: Well, they actually came to us a
13 couple weeks ago and we just kind of shelved them and
14 didn't, quite honestly, didn't realize and then when Your
15 Honor made her ruling, we've never copied them or stored
16 them on our system. So we brought them up for the *in camera*
17 review.

18 THE COURT: Okay. So at this point I'm going to
19 hand them to the defense because I indicated that the
20 defense could review them. It's not a very thick envelope.
21 I, myself, did not look at them. So, Mr. Davis, I have a
22 feeling it's not going to take you very long to look at them
23 based on the lack of thickness of the document.

24 In the meantime, why don't we address the record
25 from the Anne Arundel County Detention Center. They were --

1 had been delivered to my chambers. We, as a result of the
2 last hearing, asked the detention center to update the
3 records and I believe Ms. Palan has been to my chambers
4 several times to review them and has been able to review all
5 of them, is that correct?

6 MS. PALAN: That's correct.

7 THE COURT: So will you be the one addressing that
8 issue?

9 MS. PALAN: Yes.

10 THE COURT: Okay. I'll hear from you.

11 MS. PALAN: Thank you. Your Honor, there's two
12 subpoenas with regard to the jail records from May 28th of
13 this year. One is requesting a certified copy of all jail
14 calls and the visitor logs and the second is with regard to
15 the defendant's base file at the Anne Arundel County
16 Detention Center.

17 What I reviewed in chambers, and I believe the
18 entirety of what was produced, it's -- the base file was
19 produced, I believe, back on June 3rd by Mr. Culpepper. He
20 did supplement it with anything from May 30th through last
21 week and I was able to look through all of that. There are
22 a number of times and I think this is the issue is with
23 regard to professional visits and things of that nature,
24 where I was able to tab indications that address
25 professional visits that we're asking the Court to redact

1 before providing it to the State. There's four different
2 areas.

3 The first is there is a professional visitor's log
4 which is a sheet of paper which literally lists all
5 professional visits and we'd ask that that be removed. In
6 addition to that and I think we mentioned this at the last
7 hearing, throughout the course of the base file and it's
8 kind of randomly, any time the defense contacts the warden
9 to set up a professional visit, we send it via email. So
10 there are email communications between ourself and the
11 detention center that we would ask to be removed. In
12 addition, any time there is --

13 THE COURT: So is it just the defense counsel
14 going to visit at the detention center?

15 MS. PALAN: Correct, or any professional visits.

16 THE COURT: Okay. Go ahead.

17 MS. PALAN: When a professional visit is
18 established, there are directives that are issued by the
19 detention center. It's a formal directive to allow for the
20 visit. Those are also contained throughout the base file
21 and we would ask for those to be redacted, as well. Also,
22 any emails with regard to the professional visits within the
23 institution. There's usually a page attached to the
24 directive.

25 The more difficult area, which I, in my review, I

1 saw, is that one of the things contained in the base file
2 are progress notes which appear to be handwritten
3 itemization of any type of contact with Mr. Ramos by the
4 professional staff at the detention center. But during the
5 course of those progress notes, it would be dated and
6 handwritten if there was a face-to-face visit and with whom
7 and we would ask that that be redacted, as well.

8 I went through the base file --

9 THE COURT: So I have to have an understanding of
10 what you mean by that. I don't know what you mean by that.
11 That's not clear to me.

12 MS. PALAN: It's progress notes that are dated
13 that the case manager, any contacts or any significant
14 issues with the defendant in terms of things happening or
15 meetings she writes down or they write down in handwriting,
16 almost like a listing. So if you read through them, you
17 will see on a certain date a professional visit with such
18 and such is scheduled on this date. So it's, essentially,
19 just noting that particular contact and it's related to the
20 professional visits. That's not just a sheet of paper.
21 It's handwritten, so it would have be redacted, I guess,
22 physically, from the progress notes. The remainder of the
23 progress notes, we're not objecting to, it's just with
24 regard to our visits.

25 So those are the items that we think, based on our

1 argument at the last hearing and the Court's ruling that
2 should be redacted before those records are provided to the
3 State. I did have an opportunity to listen to the disk of
4 the jail calls. We have no objection to that being provided
5 to the State. We don't believe that contains professional
6 visits.

7 The last issue is after our last hearing, it
8 wasn't provided after the June 3rd hearing, but what also
9 came in an envelope, a rather thick envelope with the base
10 file records, were mental health and psychiatric records
11 which were contained separately. It's our position that
12 that wasn't included in the State's subpoena. We object to
13 that being presented to the State. The mental health and
14 psychiatric records are separate. They're not part of the
15 base file. I suspect that Mr. Culpepper, when was contacted
16 by the Court after the second hearing and told send
17 everything, that's why it came with the second batch. But
18 given that that's not part of the State subpoena, we believe
19 there's different issues as to those particular records. We
20 do object to those records being distributed.

21 THE COURT: If I conclude it is covered by the
22 State's subpoena, do you have additional objections or just
23 the objection?

24 MS. PALAN: We do.

25 THE COURT: What would that be?

1 MS. PALAN: I would have to defer to Mr. Davis
2 because he had argued that originally with regard to that,
3 so I would like him to address that because I think it's
4 separate.

5 THE COURT: Anything else as it relates to those
6 records?

7 MS. PALAN: No, Your Honor. The only other issue
8 is how those would be redacted. I'm not sure whether the
9 Court has reviewed those records or not.

10 THE COURT: I have not.

11 MS. PALAN: It would be our position to allow us
12 to do the redactions. We don't think the Court should be
13 privy to that information at this point, so we would ask
14 that we be able to do the redactions. As an officer of the
15 Court, I certainly know which portions of that record relate
16 only to our professional visits and I would ask that we be
17 able to do that.

18 THE COURT: Thank you. Ms. Leiteess.

19 MS. LEITESS: Should we hear from Mr. Davis, Your
20 Honor, as to why he would object to the medical records
21 before the State addresses or do you want me to address?

22 THE COURT: One moment. Actually, yes, I would
23 like to hear from Mr. Davis regarding the objection, should
24 I conclude that those -- those records are part and parcel
25 of the State's subpoena. What's the basis of the objection

1 to medical and/or psychological records?

2 MR. DAVIS: Well, there's two of it. First of
3 all, the State's subpoena indicates a certified copy of the
4 defendant's and then in parenthesis it says Jarrod Ramos,
5 gives his identification number, base file in its entirety
6 to include any and all disciplinary or infraction-related
7 reports and records, housing records, defendant's submitted
8 requests or documents related to the defendant. It would be
9 our position that it's not identified. They're not looking
10 for, nor should they be looking for because it really is
11 outside the --

12 THE COURT: I understand that part of the argument
13 that you're saying it's not --

14 MR. DAVIS: Right.

15 THE COURT: -- and I believe Ms. Palan covered
16 that, that it's not part and parcel of the subpoena.

17 MR. DAVIS: Okay.

18 THE COURT: If I conclude that any and all records
19 means any and all records, what's your next argument?

20 MR. DAVIS: Right. According to Maryland Courts
21 and Judicial Proceedings 9-109, 9-109.1, as well as 9-121.1
22 all communications between patient and therapist, between a
23 client's psychiatric nursing specialist or professional
24 counselor communications, as well as a social worker, client
25 communications, all those are covered under Maryland Courts

1 and Judicial Proceedings in 9, as I said, 109, 9-109.1 and
2 9-121. And all of them identify any communications with a
3 psychiatrist or a psychologist as privileged communications.

4 In fact -- and I don't suspect the State would
5 know this necessarily or the Court -- when an inmate is
6 brought into the Anne Arundel County Detention Center, if
7 there's any inkling or any indication of any type of
8 psychiatric or psychological issues, they are always
9 screened, if you will, by a psychological and/or psychiatric
10 professional, just to make sure that there are no issues
11 that the jail needs to be aware of and if there are, the
12 jail actually provides treatment for the individual while at
13 the jail because, obviously, it behooves the jail, while
14 they're in custody, to maintain the person's condition, as
15 opposed to allowing the person to, perhaps, decompensate, if
16 you will, if they do have mental health issues and things of
17 that nature. They obviously have suicide precautions and
18 things of that. All of which relate to psychiatric and
19 psychological profiles and things of that nature.

20 So the inmates are actually told by the counselor
21 or the psychiatrist because they do have psychiatrists at
22 the jail that their communications are privileged. And this
23 is one reason why these files, if you will, or these records
24 are not maintained in the base file. They are maintained
25 outside and separate from the base file which is why I

1 imagine Mr. Culpepper did not bring that information
2 initially and it was only brought subsequent, after being
3 contacted by the Court.

4 Excuse me -- right. They're medical records which
5 is consistent with being psychological and psychiatric
6 records. So they are privileged records pursuant to
7 Maryland law. And then if you go to the *Goldsmith* case,
8 which is 337 Md. 112, as well as the *Johnson* case, which is
9 *State v. Johnson*, 442 Md. 228, those two cases clearly spell
10 out the fact that there is no right of pretrial discovery in
11 privileged records. I mean, that's what *Goldsmith* was all
12 about. Is that the defense was trying to get privileged
13 records of the complaining witness' contact with the
14 therapist or with somebody and the court was very clear that
15 those records are privileged.

16 4-264 does not cover privileged records. It
17 covers confidential records. In fact, the rule specifically
18 says that any records not privileged in the possession of a
19 third party. So there is nothing in and that's exactly what
20 *Goldsmith*, as well as *Johnson* says. There is nothing in the
21 Maryland statute or the Maryland law that allows pre-trial
22 discovery of privileged records. Whether those records have
23 to be produced pursuant to a trial subpoena for the purposes
24 of use at trial is a different issue. And that's what
25 *Johnson* covers because in that particular case there was a

1 request for the records to be produced at trial. *Goldsmith*
2 was a request to produce those records pre-trial on a
3 discovery basis.

4 In fact, it goes on, in the *Goldsmith* case, and it
5 says in *Avery v. State*, 15 Md. App. 520, the Court of
6 Special Appeals upheld a trial court's denial of defendant's
7 motion to compel production of psychiatric records of a
8 victim where the victim claimed the records were privileged.
9 The court held that the psychiatrist was not a state agent
10 and stated whereas here, the witness claimed a privilege, no
11 suppression of evidence by the State is involved within the
12 contemplation of such cases. It then goes on to say not
13 only does Maryland Rule 4-264 prohibit discovery of the
14 privileged records requested by *Goldsmith*, but nothing in
15 *Ritchie*, *Zaal* or *Avery* would constitutionally require the
16 pre-trial discovery sought by *Goldsmith* of a private
17 psychiatric/psychotherapist's records which are shielded
18 from all eyes, state or defense.

19 So these are clearly privileged records and
20 there's nothing 4-264 does not allow for the disclosure of
21 privileged records. It only allows for disclosure of
22 confidential records. The *Johnson* case indicates that a
23 patient's privilege to preclude the disclosure of his or her
24 communications to a licensed psychiatrist and communication
25 to a licensed clinical social worker respectively, are

1 governed by Maryland Code 9-109 and 9-121 of the Courts and
2 Judicial Proceedings Article. And it indicates that the
3 communications are, in fact, privileged.

4 So I think the Courts and Judicial Proceedings
5 9-109, as well as Maryland Rule 4-264, as well as *Goldsmith*
6 and *Johnson* clearly indicate that these records are, in
7 fact, privileged and, as such, they are not subject to
8 pre-trial discovery issues, which is what the State, even
9 though they haven't made the request for these records, no
10 doubt they want them for pre-trial discovery purposes and
11 the law just does not allow that.

12 *Johnson* as I said was a situation where it was
13 beyond *Goldsmith* and the question is are those records
14 relevant for the purposes of trial and the answer to that
15 question, ultimately, was yes, but the State has to prove
16 some reason to have those records, but that's for the
17 purposes of trial, not for the purposes of pre-trial
18 discovery. For those reasons, we would suggest to the Court
19 that the State is not entitled to those records at this
20 time. There may certainly come a time in the future when
21 those records would have to be made available to the State.
22 I think under those circumstances we would refer, perhaps,
23 to the *Hartless* case or something along those lines as to
24 when they would be available to the State under those
25 circumstances.

1 So for those reasons, we would ask the Court not
2 to allow the State to review them at this time. As I said,
3 that may change in the future, depending upon, you know, the
4 ultimate plan. Because -- I mean, I think we have to
5 remember that, yes, we have filed a NCR defense, we've also
6 asked for bifurcation. So mental health issue doesn't come
7 in unless and until Mr. Ramos is convicted, initially, of
8 the charges and if he's found guilty, we would still have
9 the right to withdraw the NCR after a guilty finding, if we
10 wanted to. So mental health may never actually become an
11 issue in this case, if we decided to withdraw the NCR.

12 I'm not foreshadowing anything. I just want to
13 make sure that that's clear as to when the mental health
14 issue really becomes an issue in the case, to the extent
15 that it's presented and the State has a right to review
16 these records.

17 THE COURT: Thank you. Ms. Leiteess.

18 MS. LEITESS: I'm wondering when the State
19 actually gets to look at records before a NCR, since a
20 NCR -- a proceeding is supposed to happen shortly thereafter
21 a trial, within hours to a day or two after a trial. When
22 do we get to get those mental health records and medical
23 records. The day after trial? I don't think so.

24 Your Honor, you hit the nail right on the head
25 when you asked Mr. Davis to focus his argument on why the

1 State shouldn't get these records and he cited to you three
2 sections, CJ 9-109, 9-109.1 and 9-121 that talks about the
3 privilege and he said to Your Honor that there's a privilege
4 for these records and the State shouldn't have them. But
5 what he didn't point out to you, Your Honor, is that in
6 9-109(d), exclusion of privilege. It specifically states
7 there is no privilege if and you go down to (3) in a civil
8 or criminal proceeding, the patient introduces his mental
9 condition as an element of his claim or defense. And that's
10 what the defendant has done. He has filed a NCR and he's
11 saying at the time of the alleged crimes that while he may
12 essentially have committed the crimes, he was not able to
13 conform his conduct because of his mental disorder or mental
14 defect.

15 So the State has the ability to inquire as to
16 these mental health records and medical records at the jail.
17 Mr. Davis might have an argument if there was no NCR
18 defense. That anything that the defendant talked about or
19 did medically or psychiatrically at the jail would be off
20 limits and that could be privileged. But he has waived his
21 privilege because he has put his mental health in issue.

22 Your Honor, to understand the importance of these
23 medical records and these mental health records, the
24 defendant is alleged to have committed this crime at about
25 2:33 in the afternoon. Less than 20 minutes later, he was

1 in custody and from that moment on, for the next eight
2 hours, he was either audiotaped or videotaped. Every word
3 he said, every motion, every inquiry, every behavior was
4 videotaped. And then right before midnight, at about 11:55,
5 he went into the jail and he was videotaped there and
6 shortly thereafter, I don't know exactly when, he saw
7 medical staff and he was evaluated and it's my opinion, just
8 from doing this work for a long time, that during the
9 days -- hours, days, and weeks, and months following his
10 incarceration, that there would have been medical attention
11 and psychiatric attention and all kinds of inquiries as to
12 his behavior that are crucial to show and to meet the
13 challenge of defeating the NCR claim.

14 If their whole case is, yeah, he may have
15 committed these acts on June 28th, but he was not criminally
16 responsible, then what he did at midnight on June 28th,
17 turning into June 29 and what he did in the days, weeks, and
18 months after, up to a year, medically and psychiatrically in
19 the jail are highly relevant and highly probative to meet
20 this burden to defeat the NCR plea.

21 Your Honor, there are cases that talk about how
22 important the medical evidence is in a NCR plea. The
23 *Riggleman* case, which is 33 Md. App. 344 (1976), the Court
24 stated: That proof sufficient to raise a doubt about a
25 person's sanity can only be adduced through competent

1 medical evidence to the positive effect that the accused, as
2 a result of a mental disorder, lacks substantial capacity
3 either to appreciate the criminality of his conduct or to
4 conform his conduct to the requirements of the law.

5 So medical evidence, Your Honor, is required
6 before someone could ever be found NCR. So, likewise, that
7 medical evidence of how he was in the jail, how he acted,
8 how he was treated, whether he was on medication, whether he
9 was suicidal or not, whether he had adjustment disorders,
10 whether he complained about any kind of hallucinatory
11 activity or whether he was completely normal. Those records
12 are highly probative and can help the State, Your Honor, and
13 he has waived his privilege.

14 I think it's very important because people throw
15 out *Goldsmith* and *Zaal* and *Johnson* all the time and what
16 *Goldsmith* tells us is when there was an accusation of child
17 sexual abuse, the defendant in *Goldsmith* tried to get the
18 14-year-old victim's therapy records and the *Goldsmith* court
19 said you can't just get someone's privileged therapy
20 records, unless you make a substantial showing that there is
21 exculpatory evidence inside of those. What the *Goldsmith*
22 case found is because the victim did not waive her
23 privilege, you can't just go on a fishing expedition and
24 demand these records and they be produced.

25 What *Johnson* said is it reiterated *Goldsmith* and

1 it said if there is no waiver of a victim's mental health
2 records because they're privileged, the burden is on the
3 defense to show that the records contain information likely
4 to impact the guilt of the accused or the victim has put his
5 or her mental status in issue in the trial and then you get
6 to those privileged records.

7 So *Goldsmith* and *Johnson* say if there is no waiver
8 you have this additional burden. But in our case, Your
9 Honor, with Mr. Ramos, he has waived an inquiry into his
10 medical and his mental health status by putting his behavior
11 in issue. He is saying he could not control himself on June
12 28th. The State has a right to challenge that and to
13 inquire as to the records. If you want any further argument
14 on that part, Your Honor, I'd be glad to do it, but I also
15 would like to address the attorney/client professional log
16 and the notes of the case manager portion of the argument
17 that counsel just made.

18 Your Honor, the State continues to maintain that a
19 log is not attorney/client privilege and we know Your Honor
20 has made a ruling that we cannot get that. But the fact
21 that someone noted in a file, case manager, wrote, somebody
22 came to visit or an attorney came to visit, we are not going
23 inside the confidential communications between the attorney
24 and the client. That is just a third-party governmental
25 agency noting that someone was here to visit.

1 THE COURT: So how is it relevant to anything at
2 issue in this case, the visitor log?

3 MS. LEITESS: Well, it could -- I'm not going to
4 ask for the visitor log at this hearing.

5 THE COURT: Okay.

6 MS. LEITESS: I'm not going to.

7 THE COURT: That's what I thought you were saying.

8 MS. LEITESS: No, no. I'm not going -- you've
9 already made that ruling. I'm not going there. By
10 subpoena, the State cannot get that visitor log.

11 The case manager notes, say an attorney came to
12 visit and afterwards the defendant was very upset after that
13 visit; that might be highly probative or relevant. I'm not
14 going to be able to inquire because I'm sure there would be
15 no attorney/client privilege if there was notes about what
16 was said because then there's no attorney/client privilege.

17 THE COURT: So how, Ms. Leiteess, I'm trying to get
18 there, how might that be relevant?

19 MS. LEITESS: Well, I just --

20 THE COURT: If he had a meeting with Mr. Davis and
21 he was agitated afterwards --

22 MS. LEITESS: So it's not the State's burden and I
23 say this under the law --

24 THE COURT: I understand that.

25 MS. LEITESS: -- to explain why we need a record.

1 If they're asserting privilege -- what's happening here,
2 they're saying you should not give the State this because
3 there's a privilege. So that's their burden.

4 THE COURT: Right.

5 MS. LEITESS: And I'm saying, you know, I may
6 never be able to use any of it in trial and it may not be
7 relevant, you're absolutely right, not relevant at all. But
8 they are asking for the extra step of redaction to say that
9 somebody came to visit and I don't think that's appropriate
10 and they're trying to get the Court to go behind and to make
11 the State prove why it needs a record. Your Honor has
12 already granted our ability to get the record. You've
13 already said that the professional log -- visitor's log can
14 be redacted. The State understands that, but, you know,
15 what we want is we want his adjustment in jail. Medically,
16 socially, with correctional officers, with other people
17 inside, what his behavior was to combat the affirmative
18 defense because that's what it is, and to suggest that the
19 State should just sit on its hands and not do a full inquiry
20 as to exactly what was Mr. Ramos doing in the hours after
21 this alleged crime and, you know, what his mental health
22 status and what is his medical status, really puts the State
23 at a huge advantage and gives the defense the ability to
24 plead this pleading and not have it challenged at all.
25 Thank you, Your Honor.

1 THE COURT: Thank you. Anything further,
2 Ms. Palan or Mr. Davis?

3 MR. DAVIS: Yes. I mean, the State is acting as
4 if they're entitled to this stuff ahead of time pre-trial.
5 They seem to be missing the point of NCR and what the
6 statute says and I know what Maryland Courts and Judicial
7 Proceedings said. I read it. I understand that in a civil
8 proceeding there is no privilege if the patient introduces
9 his mental condition as an element in his defense.

10 Again, that gets to the point. There's been no
11 introduction of mental state in any defense at this point in
12 time. There's an investigation into NCR and things of that
13 nature and it may seem like we're splitting hairs, but
14 that's what the law does. The law splits hairs. And what
15 we're doing at this point in time and, you know, if the
16 State is familiar with *Treece*, than they understand that we
17 can withdraw the NCR at any point in time and therefore,
18 mental health may never become an issue in this case and it
19 may never be introduced as part of any defense because the
20 State has to prove beyond a reasonable doubt, initially,
21 that Mr. Ramos is guilty before we even get to the mental
22 health defense.

23 So the State has to put its case on before the
24 defense introduces any evidence of anything. Whether it's
25 identification or anything else before the privilege is

1 waived and at this point we're not at trial and we haven't
2 introduced any evidence in our defense. We are preparing a
3 defense, but it says that they should introduce it. It
4 doesn't say if the patient prepares. It says the patient
5 has to introduce his mental condition as an element of the
6 defense. That hasn't happened at this point in time.

7 I would suggest that the State read *Hartless*. If
8 they are worried about when is it that they are supposed to
9 get these records, read *Hartless* because *Hartless* basically
10 tells you when you're entitled to get these records. That's
11 a situation where the Court recognized the need for the
12 State to prepare and in *Hartless* it got to the point where
13 the State wasn't even allowed to have contact with their own
14 expert until, I think it was a week or so before trial.
15 Because the -- in the middle of trial. I didn't bring
16 *Hartless* with me, so I apologize for that, but I think the
17 Court is familiar with that.

18 THE COURT: I am.

19 MR. DAVIS: The cite is 327 Md. 558. So in that
20 situation the State was allowed to obtain a mental
21 evaluation of the defendant, but at the same time, they
22 weren't allowed to have contact or even see their expert's
23 report until the beginning of the trial. So that's what
24 rules and that would suggest to the Court that if, at some
25 point, the Court finds that the State is entitled to these

1 records, it should, under the circumstances, be guided by
2 *Hartless* as to when is it that the State is allowed to get
3 these records, if at all.

4 THE COURT: Thank you.

5 MS. PALAN: Judge, may I just add because I'm the
6 one that reviewed the detention center records. I just want
7 to be clear, and I understand Ms. Leites has't reviewed
8 it, but with regard to what I call the progress notes, it's
9 actually -- it's called the program file progress sheet.
10 The only thing we're asking to be redacted is it literally
11 says on such and such a date, face-to-face visit with
12 William Davis. That is the only redaction we're asking.
13 We're not trying to redact any other communications in that
14 progress sheet. Just the reference to the day and with whom
15 the professional visit was with.

16 THE COURT: As to what the subpoena covers, I find
17 that the subpoena references any and all records as it
18 relates to the defendant and then goes on to list various
19 examples of records that the State is issuing the subpoena
20 for and I find that that subpoena covers exactly what it
21 says; any and all records to include but not limited to the
22 medical and/or psychiatric records. So I find that it is
23 appropriate to address, at this point in time, and the
24 records are sitting right in front of me right now. I have,
25 as I've indicated, not reviewed any of those records as I

1 did not think it was appropriate prior to this proceeding.

2 So I find that they are fairly covered by the subpoena.

3 As to whether or not the State is entitled to

4 the -- and I'll start with those records being medical,

5 psychological records, as it relates to the defendant, I

6 think that 9-109.1(c) -- excuse me, 9-109.1(e) -- let me

7 make sure I have that right -- nope, I had it right.

8 9-109.1(d)(3) in a civil or criminal proceeding, the client

9 introduces the client's mental condition as an element of

10 the claim or the defense makes a circumstance where there is

11 no privilege and I believe that that is exactly the issue

12 that we have here.

13 The defense has filed a plea of not criminally

14 responsible and I would note that I would be -- have to

15 ignore everything that has gone on to date to reach the

16 conclusion that or to speculate that the defense may

17 possibly withdraw that issue at some point in the future.

18 There have been postponements. Extensive discussion about

19 the pursuit of the not criminally responsible plea and the

20 issue is squarely been filed with the court and I don't

21 think that the Court ought to speculate as to what the

22 defense may choose to do in the future. Certainly, the

23 defendant has the right to pursue this case in any manner

24 that it deems appropriate. But at this point in time, the

25 not criminally responsible plea is filed with the court and

1 it is actively being pursued. There was an evaluation that
2 has been ordered. There have been motions that have been
3 litigated in regards to that issue and the plea of not
4 criminally responsible under 3-109 of the Criminal Procedure
5 Act indicate the defendant is not criminally responsible for
6 criminal conduct if, at the time of the conduct, the
7 defendant because of mental disorder or mental retardation
8 lacks the substantial capacity to, one, appreciate the
9 criminality of the conduct or, two, conform the conduct to
10 the requirements of the law, and then it goes on to indicate
11 that a mental disorder does not include an abnormality that
12 has manifested only by repeated criminal or otherwise
13 anti-social conduct.

14 The written plea has been filed and the defense
15 has asked that I bifurcate. I granted that request as I
16 believe they're entitled to it and I believe that issue has
17 squarely been set forth by the defense in this case and that
18 there is no -- that these records are not protected by
19 privilege pursuant to 9-109.1. I would note that a number
20 of the cases that have been referenced here by the defense
21 do not involve cases that are -- have issues of criminal
22 responsibility. So while I understand the issues as it
23 relates to *Goldsmith* and *Zaal*, that's not the issue that
24 this Court is faced with at this moment in time. So I am
25 going to permit those records to be available to the State.

1 As to the visitor's log, I understand that
2 Ms. Palan has indicated that there is an objection to the
3 Court viewing those records and I, quite candidly, fail to
4 see how I can make a determination without looking at the
5 records. So I'll hear you further as to why you object, if
6 you want, regarding me looking at the records. Otherwise,
7 I'm going to sit right here. They are tabbed, I believe, as
8 to where the objections are and make a determination as to
9 whether or not I think there ought to be a redaction.

10 MS. PALAN: May I have the Court's indulgence?

11 THE COURT: Certainly.

12 MS. PALAN: Judge, just briefly, we would -- I
13 would just note our objection to the Court reading it. We
14 believe that those -- that particular information is in the
15 purview of the defense team and for the Court to review
16 those records, I think it, unfortunately, puts you in a
17 position of reading things that at this time are
18 confidential to our preparation in this defense and I don't
19 think the Court should be exposed to that information at
20 this time. So we would just note our objection.

21 THE COURT: I'm not aware of any authority that
22 indicates that the Court can't review the records as it
23 relates to specifically, I'm not going to read chapter and
24 verse of the record. Simply, Ms. Palan, you have yellow
25 tabbed the areas where I believe you object and I'm simply

1 going to look at that. If you want to point out to me
2 exactly where you object, I'll be happy to let you do that.
3 If not, I'll just look at the pages you've tabbed.

4 MS. PALAN: I did tab the pages that we wanted
5 redacted.

6 THE COURT: Okay. Then I'll look at those.

7 MR. DAVIS: Judge, if you could just note our
8 objection to the release of the medical and
9 psychological/psychiatric records.

10 THE COURT: That's noted.

11 MR. DAVIS: Thank you.

12 THE COURT: So that's tabbed and I think that's
13 just tabbed for the purposes of argument. And the jail
14 calls are tabbed, but I believe you withdraw any objection
15 to the jail calls, correct?

16 MS. PALAN: That's correct.

17 THE COURT: So is it okay if I take the tab off of
18 that?

19 MS. PALAN: Yes, in terms of the content. I
20 listened to them and I don't believe there's anything on
21 there that references professional visits.

22 THE COURT: All right. Consistent with my
23 previous ruling regarding these records as it relates to the
24 detention center, I've reviewed the -- only the tabbed areas
25 regarding these records and I find that what is tabbed is

1 simply really names of the attorneys and/or the professional
2 visitors as Ms. Palan has pointed out. And consistent,
3 again, with my previous ruling, I am going to allow the
4 defense to redact those names from these records. So,
5 Ms. Palan, if that would be you, I'm going to allow you to
6 take the records and redact only the names consistent with
7 the yellow tabs on these documents. I don't believe that is
8 -- that's consistent with my previous ruling. I'm not going
9 to opine further on that issue.

10 MS. LEITESS: Could we have a deadline for that,
11 Your Honor, and we'd even offer our copy machine here in the
12 building.

13 THE COURT: Sure.

14 MS. LEITESS: Today?

15 THE COURT: You're welcome to do it today, if
16 you're available to do it. I would like to get this all
17 done, moving as quickly as possible.

18 MS. LEITESS: We would ask for it today, Your
19 Honor.

20 THE COURT: Are you available to do that? I could
21 also ask my law clerk to do it.

22 MS. PALAN: I just want some clarification. With
23 regard to -- some of the directives are entire sheets of
24 paper, which just say on this date, such and such came. Are
25 you asking me to black that out or because I'm asking that

1 you -- in its entirety those sheets of paper not be
2 presented. I don't think the State is entitled to know when
3 we had professional visits, either. The only actual
4 blackout marks would be on the progress reports where I
5 can't take the whole sheet out in fairness to the State.
6 But as far as the visitor's log, it's a separate sheet of
7 paper.

8 THE COURT: Well, the visitor's log, I believe, I
9 already ruled on and Ms. Leites is nodding that I have. So
10 no visitor's log.

11 MS. PALAN: As far as emails from the public
12 defender's office to the jail, I don't -- we're asking to
13 take those out in their entirety.

14 THE COURT: I understand. I'm ruling that the
15 names come out.

16 MS. PALAN: And the dates?

17 THE COURT: No, not to the dates.

18 MS. PALAN: And as far as the progress notes are
19 concerned, you're allowing the State to know when we had a
20 face-to-face and what date, but just not the name of who had
21 that face-to-face?

22 THE COURT: No, no. The whole thing as it relates
23 to the attorney visit.

24 MS. PALAN: Okay. Correct. So the dates and
25 visit and with whom?

1 THE COURT: Yes, for the attorney visits.

2 MS. PALAN: With regard to the directives on the
3 same dates and visits.

4 THE COURT: It's a little bit -- I'm not clear
5 what your question is. The directives?

6 MS. PALAN: The directives are the sheets saying
7 so and so is coming to visit Mr. Ramos on this date and
8 time.

9 THE COURT: Yes, you can take that out.

10 MS. LEITESS: Just the name, Your Honor, or the
11 whole sheet?

12 THE COURT: So it's not -- they're not really set
13 up like you all are articulating. There are -- they are
14 sheets of paper that contain multiple things on them, not
15 just one item. So where it indicates that a visit is
16 approved, for example, it has a date. It says -- gives a
17 date and then it says action: Visit. Then it says:
18 Face-to-face approved for and it says the date and then it
19 says with. I'm authorizing the redaction of the with, with
20 whom. That's the professional visits.

21 As to the -- here's another one, I'm looking at
22 the same type of thing. It names an individual and then it
23 says, also, has a reference to the public defender's office.
24 The public defender's office can come back out. The
25 individual and in this case it also identifies the

1 profession of the individual. So that can come out. I'm
2 authorizing the redaction of the professionally identifying
3 information, as well as the attorneys.

4 MS. PALAN: And we are asking the Court to include
5 the dates of those communications.

6 THE COURT: I denied it as to the dates.

7 MS. PALAN: I would just note our objection, Your
8 Honor.

9 THE COURT: It's noted.

10 MS. LEITESS: Can that be done by today, Your
11 Honor, please?

12 THE COURT: Ms. Palan, I prefer that you do it, as
13 opposed to my law clerk do it.

14 MS. PALAN: I would, too. I think I know what I'm
15 looking for.

16 THE COURT: It really won't take very long, I
17 don't think. In that you've had the opportunity to look at
18 them. I think you've scoured them and, at least in my brief
19 review, it won't take very long. We were set for a half
20 day, so I'm hoping you can do it.

21 MS. PALAN: I can come back this afternoon and do
22 it.

23 THE COURT: Okay, perfect. Then once that is
24 completed, both sides can have copies of the documents.

25 MS. LEITESS: May we have the medical records

1 first, Your Honor, since there's no redactions in those?

2 THE COURT: Right, there are no redactions in the
3 medical records, so I'm going to allow the medical records
4 to be turned over and the State will have to comply with the
5 discovery rules in terms of the medical records.

6 MS. LEITESS: Yes, Your Honor.

7 MS. PALAN: Judge, may we have a copy of those
8 records, as well?

9 MS. LEITESS: We'll make a copy and provide it.

10 THE COURT: Can you provide that today, as well?

11 MS. LEITESS: We'll have a meeting in the hallway
12 and exchange --

13 THE COURT: Terrific.

14 MS. LEITESS: -- folders.

15 THE COURT: I'm giving the State the medical and
16 psychiatric records, as well as the jail calls and the
17 classification and records file that the defense did not
18 have any redactions to. And then, Ms. Palan, I'm going to
19 give you the other set of records that you have tabbed.

20 So now we have the education records. Has the
21 defense opened those while somebody else opened --

22 MS. PALAN: Yes, we did and I understand the Court
23 has already made your ruling as far as providing them to the
24 State, so in light of that, looking at the records, we have
25 no redactions.

1 THE COURT: Terrific. So if you could hand those
2 over to the State and I trust the State will make a copy for
3 the defense, as well.

4 MS. LEITESS: Copy for the defense and provide it
5 today, as well. Thank you, Your Honor.

6 THE COURT: I would note that the only other thing
7 that I indicated that would be addressed at this hearing was
8 if the State had filed any objection to and I realize the
9 defense would have argued that it wasn't timely, but the
10 defendant's motion for a subpoena to produce tangible
11 evidence. I haven't received any objections, so I'm going
12 to have my law clerk put those orders in my queue and I will
13 sign ...

14 MR. TUOMEY: Your Honor, it's the State's
15 understanding that the Court -- if I could have the Court's
16 brief indulgence.

17 MS. LEITESS: There are people in the audience,
18 Your Honor, who are subject matter of some of the motions.

19 THE COURT: Well, nothing has been filed. I
20 have -- nothing has been filed. Let me begin by saying,
21 though, I am not convinced that something can't be filed
22 once the proper parties are served. So to just be clear on
23 that, I'm not suggesting that nothing --

24 MS. LEITESS: Sure.

25 THE COURT: -- I'm not barring the filing of

1 anything.

2 MS. LEITESS: Right.

3 THE COURT: I just think that if a -- that's all
4 I'll say about it.

5 MS. LEITESS: It may not even be ripe until, under
6 4-266, until the order is passed.

7 THE COURT: I think that the only thing before the
8 Court, at this time, is the signing of those because the
9 State hasn't filed any response in the time period in which
10 the State would have to file it. That doesn't mean that
11 once a party is served, an individual private citizen is
12 served with the subpoena they can't file an appropriate
13 pleading at that point.

14 MR. TUOMEY: Understood, Your Honor. Your Honor,
15 the only -- not to the substance of the motion, but the
16 proposed order that the defense filed. Kind of like with
17 the State's motion for production of the tax records; that
18 the order goes into 2019, well after June 28th of 2018. So
19 I think that pursuant to the rule and the sum and substance
20 that the defense purports to be looking for, that order
21 itself should end at the June 28th, 2018 date rather than
22 continuing into 2019. I think that's what the rule requires
23 and that's how the order should read.

24 THE COURT: I'm not going to -- I'm not clear --

25 MR. DAVIS: I'm not following, either.

1 THE COURT: -- on what you're saying.

2 MR. TUOMEY: So the rule or the proposed order
3 goes into 2019. It doesn't give an end date for any
4 production of documents other than just 2019, generally.
5 It's 2009 until 2019.

6 THE COURT: So does somebody have the proposed
7 order in front of them?

8 MS. LEITESS: And there was only maybe one order
9 for two or three different motions, Your Honor, so at least
10 that's what we got on MDEC. We didn't get orders for every
11 one of them. I don't know if they weren't attached. We
12 couldn't find any orders -- we couldn't find orders for all
13 of the motions for tangible evidence.

14 MR. TUOMEY: Can I approach, Your Honor?

15 THE COURT: Yes.

16 MR. TUOMEY: I'm showing this to Mr. Davis.

17 THE COURT: So the order says -- I think I
18 understand what you're saying -- for the activities from
19 2009 to 2019.

20 MR. TUOMEY: Right.

21 THE COURT: It doesn't say through 2019. It says
22 to 2019.

23 MR. TUOMEY: The date at issue is June 28th, 2018,
24 which after the fact would turn --

25 THE COURT: So I understand that, but nothing has

1 been filed regarding this unless the defense would like to
2 amend the order.

3 MR. DAVIS: No.

4 THE COURT: So right now the only thing in front
5 of me is the defendant's motion for subpoena to produce
6 tangible evidence prior to trial regarding certain
7 individuals and there's no objection filed at this point in
8 time.

9 UNIDENTIFIED SPEAKER: Well, Your Honor --

10 MR. TUOMEY: Mr. Siegel, I wasn't going to let it
11 go without speaking about it.

12 MR. MCCARTHY: And this is Mr. McCarthy here, Your
13 Honor, and I certainly have a lot to say.

14 THE COURT: I do understand that.

15 MR. MCCARTHY: Right.

16 THE COURT: I think that the correct --
17 procedurally, the correct thing to occur is for the
18 subpoenas to be issued and the individuals to be served and
19 then whatever is the appropriate motion to be filed in
20 response to those.

21 MR. MCCARTHY: And I understand the protective
22 order issue that Your Honor is talking about. I don't think
23 that the --

24 THE COURT: So let's -- I don't want to have
25 unidentified voices on the record.

1 MR. MCCARTHY: Absolutely.

2 THE COURT: So why don't you come forward and
3 identify yourself.

4 MR. MCCARTHY: Thank you very much, Your Honor.
5 Brennan McCarthy -- M C C A R T H Y -- on behalf of --
6 basically myself and my client. At this point, Your Honor,
7 you have in front of you a motion for a subpoena to be
8 issued. The problem is that the State doesn't really have
9 standing to provide that and the only way that that motion
10 can really -- I'm not sure that simply serving it to me by
11 first class mail or dropping it off with some unidentified
12 person in my office or something is sufficient under the
13 rules for this to even -- for the court to even have
14 jurisdiction to enter an order at this time. It has to
15 be -- I think it has to be served like original process.

16 THE COURT: But the only thing in front of me is
17 the motion right now.

18 MR. MCCARTHY: I completely understand, Your
19 Honor, but I think that because the motion was directed,
20 basically, at materials that are in my possession, as an
21 attorney, and as a separate party. I don't think that
22 service is effective in this case and, therefore, do not
23 think that the court has jurisdiction in which to even enter
24 an order.

25 THE COURT: Okay.

1 MR. MCCARTHY: Do you see what I'm saying, Your
2 Honor? This is a very unusual situation.

3 THE COURT: It is.

4 MR. MCCARTHY: I've never had a public defender
5 come and, basically, ask me for incredibly privileged
6 documents before.

7 THE COURT: Right. So I think that you have the
8 right to file a motion to quash the subpoena for a
9 protective order.

10 MR. MCCARTHY: Of course.

11 THE COURT: Or however you deem it is appropriate
12 to proceed.

13 MR. MCCARTHY: Right.

14 THE COURT: But I don't believe the issue -- the
15 only issue in front of me is the motion for subpoena to
16 produce tangible evidence prior to trial. That's the only
17 issue and there's a timeframe in which to respond, so you
18 may well make that argument as to jurisdiction and I'm
19 not --

20 MR. MCCARTHY: Certainly.

21 THE COURT: -- suggesting one way or another how I
22 would rule as to that or any other issue --

23 MR. MCCARTHY: Right.

24 THE COURT: -- as it relates to this request.
25 What I am saying is the only thing that's in front of me is

1 the motion and any lack of response to it at this point in
2 time and I don't disagree with you that the State may not
3 have standing.

4 MR. MCCARTHY: They really don't, Your Honor, nor
5 am I a party to the case.

6 THE COURT: But I think that you may be heard once
7 the service is effectuated regarding the subpoena.

8 MR. MCCARTHY: And I had a strong suspicion Your
9 Honor would be saying that today. But at the same time,
10 Your Honor, I think that there is a failure on the part of
11 the defendant, in this particular case, to effectuate proper
12 service of this particular motion, given the fact that the
13 State has no dog in the fight and it's really against me.

14 THE COURT: I understand what you're saying. I'm
15 just saying it's not for today.

16 MR. MCCARTHY: I gotcha, Your Honor.

17 THE COURT: Thank you.

18 MR. MCCARTHY: I gotcha, Your Honor. You know
19 what I'm questioning.

20 THE COURT: I do.

21 MR. MCCARTHY: I think you understand.

22 THE COURT: I do.

23 MR. MCCARTHY: Thank you very much, Your Honor.

24 THE COURT: Thank you.

25 MR. TUOMEY: And the State understands what you're

1 saying about 4-266, Your Honor.

2 THE COURT: Pardon?

3 MR. TUOMEY: And the State understands what the
4 Court is saying about 4-266 and the appropriate timing of
5 the responses, I understand.

6 THE COURT: Right.

7 MR. DAVIS: Two things: One, I'm not sure what
8 Mr. McCarthy is talking about because it actually was served
9 on his office by a private process server, our investigator.

10 THE COURT: So, again, the issue is not in front
11 of me right now.

12 MR. DAVIS: I will tell the Court that Mr. Siegel,
13 who is here, Nathan Siegel, who represents Mr. Hutzell, he
14 and I have been in communication. He contacted me after he
15 received the motion, as well, and he and I have been in
16 communication and based upon those communications, I don't
17 have any reason to doubt his representation to me that
18 Mr. Hutzell is not in possession of any such documents that
19 are identified in the motion for tangible evidence, nor is
20 the Capital in possession of any such documents. So as a
21 result of that, I will ask the Court not to sign the order
22 as it relates to Mr. Hutzell only.

23 THE COURT: As it relates to Mr. Hutzell and the
24 Capital --

25 MR. DAVIS: Yes.

1 THE COURT: -- the defense is withdrawing the
2 request.

3 MR. DAVIS: Yes.

4 MR. MCCARTHY: And, Your Honor, this is Brennan
5 McCarthy again, I will state that Mr. Davis' recitation of
6 the facts is actually incorrect because it was served on a
7 member of my sister, Kathleen Kirchner's office, not mine.

8 THE COURT: All right.

9 MR. MCCARTHY: Therefore, Mr. Davis is incorrect.
10 It is ineffective, wrong. It is ineffective, Your Honor.
11 It is ineffective service.

12 THE COURT: What I'm going to do in regards to
13 that -- so is that the only other outstanding subpoena? So
14 we've withdrawn as to Mr. Hutzell. We've withdrawn as to
15 the Capital.

16 MR. DAVIS: Well, Mr. Hutzell and the Capital are
17 one.

18 THE COURT: It's one subpoena.

19 MR. DAVIS: Yes.

20 THE COURT: I just wanted to make sure that I'm
21 signing the subpoenas that the defense is still pursuing.

22 MR. DAVIS: Right. Which would be Brennan
23 McCarthy, Kathleen Kirchner, and Robert Douglas.

24 THE COURT: So I will sign those and we will see
25 what gets filed as a result. What, if anything, gets filed

1 as a result of that.

2 MR. MCCARTHY: And I will tell you, Your Honor,
3 that Kathleen Kirchner had no involvement in the previous
4 cases, so she doesn't really have anything, but --

5 THE COURT: So, perhaps, as --

6 MR. MCCARTHY: -- Mr. counsel wants to go on a
7 fishing expedition.

8 THE COURT: Perhaps, as Mr. Siegel did --

9 MR. MCCARTHY: Right.

10 THE COURT: -- Ms. Kirchner would like to contact
11 the defense and let them know.

12 MR. MCCARTHY: We can certainly do that, Your
13 Honor.

14 THE COURT: Thank you. I believe that's
15 everything we have set for today.

16 MR. DAVIS: The only thing I wanted to make sure
17 is clear is the Court has provided the State with the
18 medical records. At this point, I don't -- I guess what I'm
19 asking the Court to do right now is to make sure that those
20 records are not further disseminated without further order
21 of this Court. They should not be out there in no man's
22 land.

23 THE COURT: So let me be clear. I've allowed and
24 I believe I allowed for the defense for those -- and for
25 that information to be provided to the experts, as well, and

1 it's -- the whole point in providing those documents is to
2 make them available to the experts. I am -- I think what
3 your concern is, if I hear you correctly, is that something
4 is -- some type of information will be disseminated further
5 than that.

6 MR. DAVIS: Correct.

7 THE COURT: So my direction is other than counsel
8 and the experts as have -- the experts as it relates to
9 those issues, they are not to be disseminated further
10 without further order of the Court. Is that what your
11 request is?

12 MR. DAVIS: It is, but I guess the question is
13 what experts are we talking about?

14 THE COURT: Well, I'm talking about the experts as
15 it relates to the criminal responsibility issue.

16 MR. DAVIS: Right. At this point, the only expert
17 who is conducting an evaluation would be --

18 THE COURT: Well, any experts the State is
19 consulting in that regard and any experts the defense is
20 consulting in that regard.

21 MS. LEITESS: Thank you, Your Honor.

22 THE COURT: Thank you.

23 MS. PALAN: Your Honor, may I just, for
24 clarification?

25 THE COURT: Yes.

1 MS. PALAN: As the one saddled with redaction
2 here, I want to make sure that I fully understand, in
3 looking at these records. As far as the directives towards
4 the professional visits, you are correct, what is really
5 stated is the visit has been approved for a specific
6 professional to meet with Jarrod Ramos on this date for this
7 amount of time and here's the materials they may bring. I'm
8 asking to be able to redact anything after a visit for
9 because I don't understand or I want to be clear --

10 THE COURT: Can you show me what you're
11 referencing?

12 MS. PALAN: Yes.

13 THE COURT: I think that will help me.

14 MS. PALAN: For instance, on this one, there's the
15 date of the email. Then it says anything after so and so --

16 THE COURT: You can come up, State.

17 MS. PALAN: I don't think she should --

18 THE COURT: I know, but I don't want to have a
19 conversation that's -- she can just stand here.

20 MS. PALAN: Here's who the professional visit is.
21 Here's how long and here's the date. We think that should
22 be redacted because the length of the visit and the date is
23 not pertinent.

24 MS. LEITESS: Again, the standard is not
25 pertinence, Your Honor.

1 THE COURT: I know, I don't want to re-argue the
2 whole thing right now. I'm going to stick with just the
3 name.

4 MS. PALAN: Your Honor, we'd just like to note our
5 objection that the date and the length of the visits are
6 confidential, as well, and we believe for the same reasons
7 you ruled that the names should not be disclosed, that the
8 amount of times we visited, professionals have visited, and
9 the length of time should also not be disclosed.

10 THE COURT: I believe I've more than covered what
11 is required. In fact, probably gone beyond what is required
12 at this point in time, so I think -- the name is -- that
13 that's sufficient.

14 MS. PALAN: Thank you.

15 THE COURT: You're welcome.

16 MS. LEITESS: Thank you, Your Honor.

17 MS. O'DONNELL: Your Honor, just one more --

18 MS. LEITESS: We forgot one thing, yes.

19 MS. O'DONNELL: -- issue. This is regarding the
20 motion that you heard on July 17th. The State's motion for
21 order of production regarding Mr. Ramos' tax records.
22 What -- you may have received a letter from --

23 THE COURT: I did.

24 MS. O'DONNELL: -- from Ms. Leitess regarding the
25 order. What happened here with us is that simply we got an

1 email from Ms. Leiteess on Monday, July 29th, where she
2 attached the State's proposed order and asked if the defense
3 had any questions or concerns. And, in fact, we had two
4 that we relayed back. One was that the order has the
5 records being produced to the state's attorney's office and
6 as this Court found them to be very relevant to the issue of
7 NCR, we felt they should be brought to the Court, just like
8 all of these other records have, the educational records,
9 the jail records, and then disseminated from the Court, to
10 both parties. So that was one suggestion.

11 The second suggestion was simply that this order
12 because it contained specific information, including
13 Mr. Ramos' Social Security number and date of birth, that it
14 be simply filed under seal, so its confidential and not
15 published.

16 MS. LEITESS: We don't object to being filed under
17 seal. That phrase was not used in our exchange. It was
18 just that it not be disseminated, which we won't disseminate
19 it. So we have no problem with it being filed under seal,
20 however, Your Honor, we filed the motion for order of
21 production. Your Honor granted it. There was no caveat
22 that it had to be delivered to your chambers and we asked
23 that it be delivered in the ordinary course that any other
24 subpoena records would be given. We will send them promptly
25 to counsel as we have with other records.

1 THE COURT: I'm not going to direct that they be
2 delivered to my chambers. I don't want -- I don't think
3 it's appropriate for the Court to be in the middle of every
4 discovery issue and I don't want the Court to be the
5 disseminator of all of that type of information. I do agree
6 that it is appropriate in that it contains material such as
7 the defendant's Social Security number for it to be under
8 seal. So I will grant that request. Does that require a
9 modification to the proposed order?

10 MS. LEITESS: If you'd like us to add that
11 language under seal.

12 THE COURT: Why don't we add that just out of an
13 abundance of caution. The hearing sheet will say that, but
14 if you could add a line that it is to be sealed.

15 MS. LEITESS: Yes.

16 THE COURT: I think that will -- is the more
17 prudent approach to take.

18 MS. LEITESS: Yes.

19 MS. O'DONNELL: If Your Honor, then, is permitting
20 the records to be brought directly to the state's attorney's
21 office, obviously, we are requesting that a copy of those
22 records be provided to us immediately.

23 THE COURT: And certainly I believe that's
24 consistent with the discovery rules.

25 MS. O'DONNELL: Thank you.

1 THE COURT: So the State will comply with those
2 rules.

3 MS. O'DONNELL: Thank you.

4 THE COURT: Thank you.

5 MR. TUOMEY: I believe that's everything, Your
6 Honor.

7 MS. LEITESS: Thank you, Your Honor.

8 MR. TUOMEY: May we step back?

9 THE COURT: You may.

10 MS. PALAN: Thank you.

11 (The matter was concluded.)

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1 TRANSCRIBER'S CERTIFICATE

2 I hereby certify that foregoing is a correct
3 transcript from the electronic sound recording of the matter
4 of State of Maryland v. Jarrod Warren Ramos, Case Number
5 C-02-CR-18-001515, in the Circuit Court for Anne Arundel
6 County, Maryland, on July 31, 2019, before The Honorable
7 Laura S. Ripken.

8 I hereby certify that the proceedings were
9 transcribed by me to the best of my ability and accurate
10 manner and page numbers 1 through 49 constitute the official
11 transcript of the proceedings.

12 In witness whereof, I have affixed my signature
13 this 26th day of August, 2019.

14

15 _____/s/_____

16 TRACY A. WHITZEL, CET

17 My Commission Expires: 01/2/2021

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